



Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

info@southernshores-nc.gov

www.southernshores-nc.gov

BOARD OF ADJUSTMENT FOR THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA

ORDER DENYING VARIANCE

The Board of Adjustment of the Town of Southern Shores (the “Board”) held a Public Hearing on July 17, 2023 to consider a Variance application submitted by Lindsey Lupino (the “Applicant”) seeking to vary Town Code Section 36-165(8) Table C and Section 36-165(2)b on the parcel of property located at 5500 N. Croatan Hwy. (the “Property”). The Board, having heard all of the evidence and arguments presented at the hearing makes the following FINDINGS OF FACT:

1. The Applicant does not own the Property.
2. New signage is to be erected on the Property for a Five Below retail store.
3. The proposed signage includes a 156 sq. ft. wall sign.
4. Town Code Section 165(8) Table C allows a maximum of one sq. ft. of wall sign area per linear foot of store frontage for each store in group developments.
5. Town Code Section 36-165(2)b. states that the surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of regular geometric forms comprising all of the display area of the sign and including frames and all of the elements of the matter displayed.
6. According to the submitted drawings, the store frontage for the Five Below space is 58.2 ft. which means that the maximum allowable size for the proposed wall sign is 58.2 sq. ft.

Based on the above Findings of Fact, and considering the burdens of proof and persuasion being on the Applicant, the Board makes the following **CONCLUSIONS**:

1. All parties are properly before the Board, and the Board has the jurisdiction to consider and render a decision on the requested Variance.

2. Conclusions Regarding Specific Variance Criteria established by Town Code Sec. 36-367(a):

- (a) An unnecessary hardship **did not** result from the strict application of the ordinance.
- The property and Five Below retail store can still be used without a 156 sq. ft. wall sign.
 - Strict application of Town Code Section 36-165(8) Table C. would still allow a 58.2 sq. ft. wall sign.
- (b) The Alleged Hardship **did not** result from conditions that are peculiar to the Property, such as location, size, or topography.
- There are other businesses currently in the Marketplace that have wall signs that are less than 58.2 sq. ft:
- (c) The Alleged Hardship **did** result from actions taken by the Applicant or the Property Owner.
- The one square foot of wall sign area per linear foot of store frontage requirement has been in effect since 2001.
- (d) The Requested Variance **is not** consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
- The Town adopted the current signage standards and regulations to ensure that permitted signs reflect the aesthetics desired by its residents; promote traffic safety; and, provide minimum interference with individual property rights.

THEREFORE, based upon all of the foregoing the application for a Variance is **DENIED**.

Ordered this ____ day of _____, 2023

Andy Ward, Chairperson

Sheila Kane, Secretary

NOTE:

If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of Dare County in accordance with Town Code Sec. 36-368(b) and Article 14 of Chapter 160D of the North Carolina General Statutes.